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VIA HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

GRAHAM & JAMES

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October 4, 1994

VIA HAND DELIVERY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: PR Docket No. 94-105
PR File No. 94-SP3

Dear Mr. Caton:

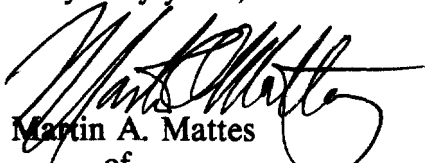
Please find enclosed for filing in the above-referenced proceeding the original and fifteen (15) copies of:

- 1) Motion to Accept Late-Filed Opposition of Bay Area Cellular Telephone Company to Request of National Cellular Resellers Association for Access to California Petition for State Regulatory Authority Pursuant to the Terms of a Protective Order;
- and
- (2) Opposition of Bay Area Cellular Telephone Company to Request of National Cellular Resellers Association for Access to California Petition for State Regulatory Authority Pursuant to the Terms of a Protective Order.

Please return a file-stamped copy of each document with our messenger.

Thank you in advance for your kind attention to this matter.

Very truly yours,


Martin A. Mattes
of
GRAHAM & JAMES

MAM:
Enclosures
Our File: 14840.376

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OCT -5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Petition of the People of the State of
California and the Public Utilities
Commission of the State of California
to Retain Regulatory Authority Over
Intrastate Cellular Service Rates

PR Docket No. 94-105
PR File No. 94-SP3

MOTION TO ACCEPT LATE-FILED
OPPOSITION OF BAY AREA CELLULAR TELEPHONE COMPANY
TO REQUEST OF NATIONAL CELLULAR RESELLERS ASSOCIATION
FOR ACCESS TO CALIFORNIA PETITION FOR STATE REGULATORY
AUTHORITY PURSUANT TO THE TERMS OF A PROTECTIVE ORDER

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October 4, 1994

Before the
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Washington, D.C. 20554

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OFFICE OF SECRETARY

In the Matter of)

Petition of the People of the State of)
California and the Public Utilities)
Commission of the State of California)
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MOTION TO ACCEPT LATE-FILED
OPPOSITION OF BAY AREA CELLULAR TELEPHONE COMPANY
TO REQUEST OF NATIONAL CELLULAR RESELLERS ASSOCIATION
FOR ACCESS TO CALIFORNIA PETITION FOR STATE REGULATORY
AUTHORITY PURSUANT TO THE TERMS OF A PROTECTIVE ORDER

Bay Area Cellular Telephone Company ("BACTC")

respectfully requests that the Commission grant leave to file one day out of time the attached Opposition of Bay Area Cellular Telephone Company to Request of National Cellular Resellers Association for Access to California Petition for State Regulatory Authority Pursuant to the Terms of a Protective Order in the above-captioned docket.

Due to an error in electronic transmission from the San Francisco office to the Washington D.C. office of BACTC's attorneys, BACTC's Opposition arrived at the Commission's docket office one minute after closing on October 4, 1994, the prescribed date for submitting such opposition. Accordingly, BACTC tenders one day late its opposition to the Motion of the National Cellular Resellers Association for Access to California Petition for State Regulatory Authority Pursuant to the Terms of a Protective Order.

No parties in the above-referenced matter would be prejudiced by a grant of leave to file, since all parties were served with BACTC's Opposition on the original due date.

THEREFORE, BACTC respectfully requests that the Motion to Late-File be granted.

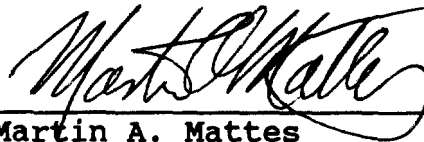
Respectfully submitted,

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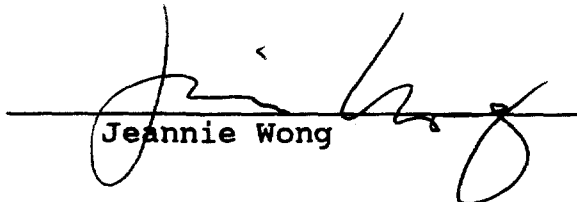
October 4, 1994

CERTIFICATE OF SERVICE

I, Jeannie Wong, certify that I have on this date caused the foregoing MOTION TO ACCEPT LATE-FILED OPPOSITION OF BAY AREA CELLULAR TELEPHONE COMPANY TO REQUEST OF NATIONAL CELLULAR RESELLERS ASSOCIATION FOR ACCESS TO CALIFORNIA PETITION FOR STATE REGULATORY AUTHORITY PURSUANT TO THE TERMS OF A PROTECTIVE ORDER in the Matter of Petition of the People of the State of California and the Public Utilities Commission of the State of California to Retain Regulatory Authority Over Intrastate Cellular Service Rates to be served on the parties of interest in FCC PR Docket No. 94-105; PR File No. 94-SP3 by sending a copy by United States mail, first-class, postage prepaid, to all parties on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of October 1994, at San Francisco, California.


Jeannie Wong

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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)	
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Commission of the State of California)	
to Retain Regulatory Authority Over)	
Intrastate Cellular Service Rates)	
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OPPOSITION OF BAY AREA CELLULAR TELEPHONE COMPANY
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FOR ACCESS TO CALIFORNIA PETITION FOR STATE REGULATORY
AUTHORITY PURSUANT TO THE TERMS OF A PROTECTIVE ORDER

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October 4, 1994

SUMMARY OF BACTC'S POSITION

The CPUC and its representatives acted unlawfully in releasing confidential trade secret information, submitted by BACTC and other cellular carriers to the CPUC under the protection of California law and CPUC regulations, without having followed the procedures required by such law and regulations for the release of such information. The Commission should not, and need not, rely on such confidential information in reaching its decision on the CPUC Petition. The Commission should not compound the CPUC's improper disclosure by further releasing any such confidential information to NCRA or any other member of the public, including competing cellular carriers.

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OPPOSITION OF BAY AREA CELLULAR TELEPHONE COMPANY
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AUTHORITY PURSUANT TO THE TERMS OF A PROTECTIVE ORDER

Pursuant to Section 1.45 of the Rules of Practice and Procedure of the Federal Communications Commission ("Commission"), 47 CFR §1.45, Bay Area Cellular Telephone Company ("BACTC") hereby opposes the Request for Access to California Petition for State Regulatory Authority Pursuant to the Terms of a Protective Order filed September 19, 1994, by the National Cellular Resellers Association ("NCRA"). The "California Petition" referenced in the NCRA request is the above-captioned Petition of the People of the State of California and the Public Utilities Commission of the State of California ("CPUC") to Retain Regulatory Authority Over Intrastate Cellular Service Rates, filed August 8, 1994 (the "Petition"). For the reasons presented below, BACTC respectfully urges that NCRA's Request for Access be denied and that its data which the CPUC has improperly provided to the Commission be treated as confidential.

I. STATEMENT OF BACTC'S INTEREST

Prior to the CPUC's filing of its Petition, BACTC had been required by order of a CPUC administrative law judge ("ALJ") to furnish to the CPUC certain highly confidential and competitively sensitive trade secret information. BACTC submitted the required information to the CPUC as ordered, but expressly invoked the confidentiality protections assured by California law and CPUC regulations. The CPUC Petition appears to include a substantial amount of the information for which BACTC had claimed confidentiality as well as data calculated on the basis of such confidential information. Acknowledging its confidential nature, the CPUC redacted all such information from copies of the Petition which the CPUC furnished to persons outside the Commission. Thus, BACTC has a strong interest in opposing NCRA's request for further dissemination of the redacted information.

II. SUMMARY OF BACTC'S POSITION

The CPUC and its representatives acted unlawfully in releasing confidential trade secret information, submitted by BACTC and other cellular carriers to the CPUC under the protection of California law and CPUC regulations, without having followed the procedures required by such law and regulations for the release of such information. The Commission should not, and need not, rely on such confidential information in reaching its decision on the CPUC Petition. The Commission should not compound the CPUC's improper disclosure by further releasing any such confidential information

to NCRA or any other member of the public, including competing cellular carriers.^{1/}

III. THE INFORMATION REDACTED FROM THE CPUC PETITION INCLUDES INFORMATION THAT IS HIGHLY CONFIDENTIAL AND PROPRIETARY TO BACTC.

A. The CPUC Has Recognized the Confidential Status of Subscriber and Capacity Data Submitted to It by BACTC and Other Cellular Carriers.

In December 1993, the CPUC opened an investigation (I.93-12-007) on its own motion to review its policies governing mobile and wireless telecommunications. Two rounds of comments were filed in February and March, 1994, in response to the CPUC's order instituting investigation, with a number of cellular carriers, CCAC and other parties submitting detailed factual information and policy arguments and conclusions drawn from those facts. None of this information was submitted under a claim of confidentiality; it is all part of the public record in I.93-12-007.

1/ BACTC has previously expressed its opposition to consideration of this confidential information in its opposition to the CPUC Petition, filed September 19, 1994 ("BACTC Opposition"). The Cellular Carriers' Association of California ("CCAC") also filed a Motion to Reject the Petition or, Alternatively, Reject Redacted Information, filed September 19, 1994 ("CCAC Motion"). BACTC now expressly supports the CCAC Motion.

BACTC confines its attention in this response to that confidential information which originated with the cellular carriers and was provided to the CPUC pursuant to the ALJ's rulings. Similar issues and concerns are raised by the CPUC's inclusion in its Petition of information obtained from the California Attorney General. BACTC relies on and supports the analysis of this matter presented in the oppositions filed by other parties.

In April 1994, the ALJ presiding over I.93-12-007 issued two rulings ordering the cellular carriers and CCAC to provide detailed supplemental information about the carriers' operations to the Commission. In responding to the ALJ's rulings, CCAC and each of the cellular carriers, including BACTC, identified certain information being provided to the CPUC as confidential and proprietary in nature and entitled to protection from disclosure under California law. The data submitted by the carriers and CCAC were provided to the CPUC pursuant to the ALJ's rulings of April 11 and April 22, 1994 (without the benefit of a protective order, as has been represented by the CPUC).

By a ruling issued May 5, 1994, one day after BACTC's initial submission of confidential information pursuant to the ALJ's previous rulings, the ALJ called on those carriers that had asserted claims of confidentiality to submit motions for protection from disclosure. The ALJ specified that such motions should provide justification for such claims meeting the standard set in Pacific Bell, 20 Cal. PUC 2d 237 (1986), where the CPUC ruled that confidential treatment of data submitted by a utility to the CPUC should be granted only upon a showing that release of the data would lead to "imminent and direct harm of major consequence" Id. at 252, quoted in ALJ's Ruling of May 5, 1994, at 3-4. In this ruling the ALJ for the first time imposed a protective order to guard against disclosure of assertedly confidential data until the invited motions had been ruled on. ALJ's Ruling, supra, at 4.

BACTC responded to the ALJ's May 5 ruling by moving for confidential treatment of previously submitted detailed data including its total number of subscribers, the number of "subscriber units" on various cellular rate plans, and BACTC's capacity utilization rates in particular years.^{2/} BACTC argued that this information comprised valuable trade secrets, which were the product of BACTC's business operations and were proprietary to BACTC. Disclosure of any of this information, BACTC contended, would unjustly benefit BACTC's competitors to BACTC's direct and immediate disadvantage.^{3/}

By a series of further rulings, the CPUC's ALJ granted in part BACTC's and the other cellular carriers' motions for confidential treatment, finding that all carrier-submitted 1992-93 data concerning the total number of subscribers on a carrier's system, the number of subscribers on each rate plan, and capacity utilization data were confidential. ALJ's Ruling of July 19, 1994, at 4-6; ALJ's Ruling of August 8, 1994, at 6-7. The ALJ recognized

^{2/} Similar requests for confidential treatment of information were made by the other cellular carriers.

^{3/} BACTC noted that "[a]ll of this information could be used by BACTC's competitors, including GTE Mobilnet, Nextel, or any of a number of resellers, to evaluate BACTC's market share, cost structure, penetration levels, and other characteristics of BACTC's business and the market in which BACTC operates." BACTC Motion to Protect Confidential Information From Disclosure, filed May 18, 1994, in CPUC Investigation I.93-12-007, at 4. As an example of the disadvantage disclosure would cause, BACTC noted that "disclosure of this information would enable BACTC's competitors to evaluate the trends in sales and usage of BACTC's various rate plans, thereby enabling them to realign or direct their own operations to be more effective in competing against BACTC for the most profitable segments of BACTC's customer base." Id. at 4-5.

that "such information has commercial value to competitors which could be used to the detriment of the carrier disclosing it." ALJ's Ruling of July 19, 1994, at 4. "Such information can be reasonably classified as 'trade secrets.'" ALJ's Ruling of August 8, 1994, at 6. No party appealed this ruling.

B. By Its Petition to Retain State Regulatory Authority, the CPUC Disclosed Admittedly Confidential Information.

The CPUC Petition included numerous items of information which its ALJ had previously found to constitute trade secrets entitled to confidential status. In particular, the CPUC Petition appears to include: (1) detailed tabulations of the number of "subscriber units" and retail and wholesale customers by carrier, year, and rate plan (Appendices G and J); (2) capacity utilization rates for BACTC and other carriers in the Los Angeles and San Francisco markets (Petition, at 51-53 and Appendix M); (3) calculations of revenue, operating expense, plant, and operating income on a per subscriber basis (Petition, at 35 and Appendix H);^{4/} and (4) market share data (Petition, at 29-34 and Appendix E).

The CPUC acknowledged that these and certain other portions of the Petition contained "proprietary data and materials concerning commercially sensitive information not customarily released to the public, and which, if disclosed, could compromise the position of a cellular carrier relative to other carriers in

^{4/} Because the company-wide revenue, expense and income data are publicly available, the provision of such information on a per-subscriber basis would allow competitors to determine the number of each carrier's subscribers.

offering service in various markets in California." Request for Proprietary Treatment of Documents Used in Support of Petition to Retain Regulatory Authority Over Intrastate Cellular Service Rates, filed August 8, 1994, at 1-2. Accordingly, the CPUC redacted such confidential information from the copies of its Petition provided to interested parties and requested that the unredacted original CPUC Petition not be publicly disclosed. Id. at 1. This was not an adequate protection, as subsequent developments have shown.

IV. THE CPUC'S INCLUSION IN ITS PETITION OF ADMITTEDLY
CONFIDENTIAL INFORMATION VIOLATED THE FCC REVIEW PROCESS
AND VIOLATED CALIFORNIA LAW AND CPUC REGULATIONS.

As BACTC and other carriers demonstrated in their responses in opposition to the CPUC Petition, the CPUC's submission of proprietary information to the Commission and its determination to serve BACTC and other carriers with only redacted copies severely impeded the ability of interested parties, including BACTC, to respond effectively and fully to the CPUC Petition. See, e.g., BACTC Opposition filed in this proceeding September 19, 1994, at 6. Interested parties, including BACTC, were greatly handicapped in their ability to rebut the CPUC's "showing," to the extent they could not know what that "showing" was. Thus, the CPUC, by its improper submission, has violated the process the Commission had established for the review of petitions like that of the CPUC and challenged the statutory scheme established by Section 332(c)(3) of the Communications Act. See BACTC Opposition, supra, at 9.

More fundamentally, the CPUC's provision to the Commission of information that its ALJ had previously conceded to

be the confidential trade secrets of BACTC and other cellular carriers constituted a breach of California law and of the CPUC's own procedural regulations. Section 583 of the Public Utilities Code of the State of California ("Public Utilities Code") makes it a criminal offense for any officer or employee of the CPUC to divulge any information furnished to the CPUC by a public utility or affiliated business, except matters specifically made open to public inspection by statute, unless "on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding."

The CPUC's General Order No. 66-C (attached hereto as Exhibit A) makes clear that "information of a confidential nature furnished to, or obtained by the Commission" is not open to public inspection, and so comes within the scope of Public Utilities Code Section 583. Thus, in furnishing an unredacted original of the Petition to the Commission, the CPUC's representatives violated Section 583 of the Public Utilities Code and committed a misdemeanor.

The CPUC now seeks to excuse its conduct on the basis that it has not "made public any materials provided to the CPUC confidentially." Rather, it has "simply shared on a confidential basis with another public agency" information obtained under seal. Opposition of California to Motion to Reject Petition or, Alternatively, Reject Redacted Information, filed September 26, 1994 ("CPUC Opposition"), at 11. This is a disingenuous claim that does not stand up to analysis.

The present intensive attention that the Commission and interested parties are having to devote to NCRA's Request for Access demonstrates that there was a risk that the CPUC's "sharing" with the Commission of the carriers' confidential information would turn out not to have been "on a confidential basis" at all. The Commission is not bound by Section 583 of the California Public Utilities Code, nor by the CPUC's general orders. There is no way that the CPUC could have ensured that disclosure of the carriers' trade secrets to the Commission would not lead to full disclosure to the public. Now, in fact, the CPUC disclaims any interest at all in maintaining the confidentiality of this data. Letter of Ellen S. LeVine to Regina Harrison, September 13, 1994, attached as Appendix B to CPUC Opposition. The CPUC has tried to shift to the Commission the obligation to protect the carriers' proprietary interest in their trade secrets, while denying any legal responsibility for disclosures that may ensue.

The CPUC contends that its sharing of utility-supplied confidential information to the Commission is "expressly contemplated by Section 2.4 of General Order 66-C." This is a misrepresentation. The CPUC accurately states that Section 2.4 provides confidentiality for "[n]on-public communications with other public agencies." But all this means is that an inter-agency document lodged in the CPUC's own files is not necessarily subject to public disclosure. Section 2.4 in no way condones the CPUC's release of confidential information, provided to the CPUC by a utility, to any public agency, let alone one, such as the

Commission, which may have jurisdiction to preempt the protections of California law.

As noted above, the CPUC could have divulged the confidential information included in the unredacted version of the Petition by adopting an order to that effect. However, no such order was adopted. Had the CPUC adopted such an order, cellular carriers, including BACTC, could have protected their rights by seeking rehearing and/or judicial review.^{5/} Thus, the CPUC's release of confidential information to the Commission through its Petition, absent adoption of a CPUC order, denied BACTC and other cellular carriers their rights of confidentiality and appeal under the Public Utilities Code.

The FCC should not compound the CPUC's illegal act by releasing the improperly provided information to third parties. Accordingly, NCRA's Request for Access should be rejected and the information returned to the CPUC.

V. THE COMMISSION SHOULD NOT MAKE THE CARRIERS' CONFIDENTIAL INFORMATION AVAILABLE TO ANY PARTIES, EVEN SUBJECT TO A PROTECTIVE ORDER.

A. NCRA's Request for Access Should Be Denied Because NCRA Has Failed to Follow the Commission's Procedures for Submitting Such Requests.

Under the Freedom of Information Act ("FOIA"), 5 U.S.C §552, "trade secrets and commercial or financial information

^{5/} Except in clearly defined emergency circumstances not here applicable, the CPUC may not adopt an order except in public session and pursuant to statutory notice. Also, any CPUC order is subject to application for rehearing and, upon denial of such application, petition for review to the California Supreme Court. See generally, Public Utilities Code Sections 1731-67.

obtained from a person and privileged or confidential" are protected and not subject to disclosure. 5 U.S.C. §552(b)(4). This exemption is intended to protect the interests of both the Government and the individual supplying the information. "The exemption may be invoked for the benefit of the person who has provided commercial or financial information if it can be shown that public disclosure is likely to cause substantial harm to his competitive position." National Parks v. Morton, 498 F.2d 765, 770 (D.D.C. 1974). The exemption may be "applicable even though the Government itself has no interest in keeping the information secret." Id.

The Commission's procedural rules track the provisions of FOIA. Included among records "not routinely available for public inspection" are "[t]rade secrets and commercial or financial information obtained from any person and privileged or confidential." 47 CFR §0.457(d). Because the CPUC has shown in its Request for Proprietary Treatment, filed August 8, 1994, that the subject materials contained commercially sensitive information customarily guarded from competitors, the Commission's rules require that such materials "not be made routinely available for inspection" and "a persuasive showing as to the reasons for inspection will be required in requests for inspection submitted under §0.461." 47 CFR §0.457(d)(2)(i). Where members of the public have requested permission to inspect such records under §0.461, "the Commission will weigh the policy considerations favoring nondisclosure against the reasons cited for permitting

inspection in the light of the facts of the particular case." 47 CFR §0.457.

NCRA has not followed the procedures set forth in 47 CFR §0.461 for presenting a request to inspect documents pursuant to FOIA. In fact, NCRA has not expressly invoked FOIA and has instead relied for its "Request for Access" entirely on its right to comment on the CPUC Petition under the terms of Section 332(c)(3) of the Communications Act. However, when documents are submitted to the Commission pursuant to the Communications Act, the rules applicable to requests for access to those documents are those the Commission has adopted pursuant to FOIA. NCRA's failure to follow those rules mandates denial of its request. See Reuters Ltd. v. FCC, 781 F.2d 946, 950-951 (D.C. Cir. 1986).

B. If the Commission Chooses to Consider NCRA's Request for Access on its Merits, It Must Apply a Balancing Test.

As noted above, should the Commission chose to consider NCRA's Request for Access despite NCRA's failure to follow the established rules for submission of such requests, the Commission "will weigh the policy considerations favoring nondisclosure against the reasons cited for permitting inspection in the light of the facts of the particular case." 47 CFR §0.457.^{6/}

^{6/} Under the Federal Rules of Civil Procedure, Rule 26(c)(7), the determination whether to make confidential information available to opposing third parties is subject to a similar balancing test, weighing the harm caused to the party against whom disclosure is sought against the need of the discovering party to gain access to the information in order to participate effectively in a pending case. McCarthy v. Barnett Bank, 876 F.2d 89 (11th Cir. 1989).

In the present circumstances, this weighing of policy considerations is complicated in several important ways by the multi-party character of this proceeding. The CPUC is the party which submitted confidential information to the Commission, but it is the cellular carriers that claim a proprietary interest in maintaining the confidentiality of that information. As discussed above, the CPUC has conceded the confidentiality and trade secret character of the information it has submitted, but now disavows having any "independent interest in continuing to treat this data as confidential."^{7/} Letter of Ellen S. LeVine, Esq. to Regina Harrison, Esq., September 13, 1994, supra.

C. Disclosure of the Confidential Data is Inappropriate Unless a Compelling Public Interest In Disclosure is Shown.

The Commission has previously disclosed confidential information only where a compelling public interest in disclosure is identified. In Re: Western Union Telegraph Company, 2 FCC Rcd. 4485, 4487 (1987) (citing Kanaapolis Television Co., 80 FCC 2d 307 (1980); MCI Telecommunications Corp., 58 Rad.Reg. 2d 187 (1985)). The Commission has stated that in such cases, it adheres to a policy whereby:

^{7/} It is disturbing that the CPUC would so blithely wash its hands of responsibility for maintaining the confidential status of trade secret information submitted to it by public utilities pursuant to an ALJ's order. Even presuming that the CPUC's disclosure to the Commission has not "made public" the confidential information, one would expect the CPUC at least to acknowledge a continuing duty to avoid public disclosure of the trade secrets it has placed in the Commission's hands.

[t]he Commission will not authorize the disclosure of confidential financial information on the mere chance that it might be helpful but insists upon a showing that the information is a necessary link in a chain of evidence that will resolve a public interest issue. [Citation omitted].

In Re: Western Union Telegraph Company, supra, 4487 (1987).

(Emphasis added). In the present case, NCRA has failed utterly to prove that the information it seeks will resolve a public interest issue. Quite to the contrary, in its two and one-half page pleading, NCRA has offered no showing at all. Under such circumstances, the Commission cannot disclose the information and has no options but to return the redacted data to the CPUC.

D. The Balance of Interests Between the Cellular Carriers and NCRA Strongly Favors Nondisclosure.

Setting aside for the moment the Commission's interest in being able to consider the redacted information as part of a full and complete record, the balance of interests weighs heavily in favor of maintaining full confidentiality. The interests of the cellular carriers in preventing their competitors from gaining access to data regarding the numbers of their subscribers, in total and with respect to particular service plans, or about their capacity utilization factors and market shares, are important and self-evident. The public character of the present proceeding, open to participation by any and all comers, makes the carriers' interest in maintaining full confidentiality even more compelling. Even with disclosure subject to a strict protective order, the difficulty of preventing further disclosure to those who would use

such data for business purposes is extreme in such an open proceeding.

In contrast to the clear and substantial interest of the cellular carriers in preventing disclosure, the interest of NCRA in obtaining access to this data is very slight. NCRA's demand for disclosure for purposes of its participation in this proceeding should be accorded little weight, because even NCRA showed no interest in obtaining such access prior to filing its response to the CPUC Petition. The only support NCRA states for its demand for access is a reference to "the statutory and regulatory requirement that the public be allowed to comment on any petition." NCRA Request for Access to California Petition, at 2. NCRA did not need to know the carriers' confidential information in order to file its comments on the CPUC Petition; it did not even file its "request for access" until the date its comments were due and filed. Nor does NCRA need such knowledge to file its next round of comments, which must address not the CPUC Petition but the responses filed to date.

Thus, the balance of interests between the cellular carriers and NCRA weighs strongly in favor of nondisclosure. The CPUC itself has declared it has no independent interest in the confidentiality or disclosure of the subject information. Only the interest of the Commission itself requires further consideration.